

On June 21, 2006 alone, Plaintiff filed five separate Complaints requiring this Court's time and resources. All five of those Complaints were dismissed on initial

review for failure to state a claim for relief, frivolousness, or failure to file in the proper district. Plaintiff's frequent filings are abusive in that they each require significant time and attention from the Court's legal staff that could be better served on cases that state legitimate constitutional violations. Plaintiff is put on notice that because he has had at least three cases dismissed, in this district alone, as frivolous or for failure to state a claim upon which relief may be granted, he may not file future civil actions or appeal a judgment in a civil proceeding under 28 U.S.C. § 1915 in any federal district unless he is under imminent danger of serious physical injury. 28 U.S.C. § 1915(g).

(Case No. 1:05-cv-357, Doc. No. 31 at 4) (emphasis in original). Plaintiff appealed, and the United States Court of Appeals for the Fourth Circuit affirmed summary judgment for the defendants for the reasons stated in Judge Mullen's Order. VanDyke v. O'Donell, No. 06-7454, 222 F. App'x 264 (4th Cir. Mar. 27, 2007).

The provisions of 28 U.S.C. § 1915 are mandatory and define the degree and scope of this Court's initial review of Plaintiff's Complaint. See Crawford-El v. Britton, 523 U.S. 574, 596 (1998) (discussing the Prisoner Litigation Reform Act ("PLRA")). Section 1915(g) provides that:

In no event shall a prisoner bring a civil action or appeal a judgment in a civil action or proceeding under this section if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.

At least three of Plaintiff's previous complaints were dismissed on the grounds that they were frivolous or failed to state a claim upon which relief may be granted. See, e.g., (Case Nos. 1:05-cv-357-GCM; 1:06-cv-172-GCM; 1:06-cv-200-GCM; 1:12-cv-113-RJC).


This Court has examined Plaintiff's Complaint, (Doc. No. 1), and finds that Plaintiff's Complaint fails to demonstrate that he "is under imminent danger of serious physical injury" as required by § 1915(g) of the PLRA. Plaintiff filed this action on June 14, 2012, naming the following as Defendants: Dr. FNU Curry; Butner Regional Forensic Administrator; James

Christensen (identified as a “Psychic Doctor Butner Regional Central Hospital”); and Charles Vance (also identified as a “Psychic Doctor Butner Regional Central Hospital”). (Doc. No. 1). Plaintiff alleges that while at Butner Regional Hospital between February 16, 2012, and March 2, 2012, he begged for medical assistance from Defendants Curry, Christensen, Vance, and others. Plaintiff alleges that he was told that he would not be at Butner long enough to receive medical treatment, and that he was therefore neglected while at Butner. Plaintiff also contends that while at Butner he was denied various medications, including Ibuprofen, his “breathing” medication, and his heart medication. He also contends that the Butner staff kept his inhaler from him during certain times when he needed it. Plaintiff is subject to § 1915(g)’s bar to filing civil actions under the PLRA without prepayment of the filing fee. Because he is no longer incarcerated at Butner, he cannot show that he is under imminent danger of serious physical injury. Pursuant to 28 U.S.C. § 1915(g), Plaintiff’s Application to Proceed *in forma pauperis* must be **DENIED**. This Court will **DISMISS** Plaintiff’s Complaint without prejudice to his ability to re-file with prepayment of the filing fee.

**IT IS, THEREFORE, ORDERED** that:

1. Plaintiff’s Application to Proceed *in forma pauperis*, (Doc. No. 1-2), is **DENIED**;
2. Plaintiff’s Complaint, (Doc. No. 1), is **DISMISSED without prejudice**.

Signed: July 3, 2012

  
Robert J. Conrad, Jr.  
Chief United States District Judge 